

Remarks

Introduction

Claims 1, 2, 4, 5 and 42-45 are pending in this application, with Claims 1 and 42 being independent. Reconsideration and allowance of Applicant's claims are respectfully requested in view of the following remarks.

Rejections under 35 U.S.C. §101

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. §101 as being directed to non-patent eligible subject matter. In particular, the Office Action notes that the scope of a "computer readable medium" may cover a signal, which is non-statutory subject matter. Applicant respectfully points out that the quoted terminology "computer readable medium" is not recited in any of these claims. Thus, it is not clear which portions of the claims are considered to be directed to non-statutory subject matter. Because this language is not recited in the claims, withdrawal of this rejection is respectfully requested. In the event this rejection is maintained, Applicant kindly requests clarification regarding the claim language to which the Office Action cites as necessitating this rejection.

Rejections under 35 U.S.C. §102

Claims 1, 2, 4, 5 and 42-45 are rejected under 35 U.S.C. §102(e) as being anticipated by Kato et al ("Kato," U.S. Patent Application Publication No. 2002/0164152). In making this rejection, the Office Action relies on the PCT filing date of Kato's application, April 20, 2001, to qualify Kato as prior art. In order for the international filing date to qualify as the U.S. filing date, the international application must have: (1) an international filing date on or after November 29, 2000, (2) designated the U.S. and (3) been published under PCT Article 21(2) in English. M.P.E.P. §706.02(f)(1).

Here, the Office Action relies on the filing date of PCT/JP01/03412. This PCT application was published as WO 01/82605 ("WO '605"). However, WO '605 was published in Japanese, not English. Thus, the international filing date may not be relied upon, and the U.S. Publication date of Kato becomes the effective filing date. As such, the effective filing date of Kato is November 7, 2002. See M.P.E.P. §706.02(f)(1).

The present application was filed on September 10, 2003, and is supported by and claims priority to a Korean Patent Application No. 2002-0054945, filed on September 11, 2002, in the Korean Intellectual Property Office. An English translation of the certified copy of this application along with a statement that the translation is accurate is filed herewith. As such, the effective filing date of this application is September 11, 2002, which predates the effective filing date of Kato. Thus, Applicant respectfully submits that Kato is disqualified as prior art.

Because Kato is disqualified as prior art, the rejection under §102 is not supported. Accordingly, withdrawal of this rejection and allowance of these claims are respectfully requested.

Double Patenting

Claims 1, 2, 4, 5 and 42-45 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of copending U.S. Patent Application Serial No. 12/170,942.

Claims 1, 2, 4, 5 and 42-45 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of copending U.S. Patent Application Serial No. 12/170,964.

Claims 1, 2, 4, 5 and 42-45 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of copending U.S. Patent Application Serial No. 12/170,975.

Claims 1, 2, 4, 5 and 42-45 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of copending U.S. Patent Application Serial No. 12/170,992.

Claims 1, 2, 4, 5 and 42-45 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of copending U.S. Patent Application Serial No. 12/170,911 in view of Kato.

It is noted that these rejections are provisional. Without addressing to the validity of the provisional rejections above, Applicant points out that the scope of the claims of the present application or any of the copending applications above may change during the course of prosecution. As the scope of the claims of the present application or any of the copending applications above may change during the course of prosecution, the provisional rejections may be obviated. For at least this reason, the merits of these provisional rejections will be addressed at least until there is an indication that this application is otherwise allowable. However, Applicant reserves the right to traverse these provisional rejections at any time.

Also, M.P.E.P. §804(I)(B)(1) provides that “[i]f a ‘provisional’ nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.”

It is respectfully submitted that the rejections under §101 and §102 are properly addressed and should be withdrawn. Thus, the provisional nonstatutory obviousness-type double patenting rejection is the only rejection remaining, in this, the earlier filed application. Therefore, Applicant respectfully submits that these provisional rejections be withdrawn, and that this application is in condition for allowance.

Conclusion

It is respectfully submitted that a full and complete response has been made to the outstanding Office Action. As such, there being no other rejections or objections, this application is in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,

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